

1 MITCHELL D. GLINER, ESQ.  
2 Nevada Bar #003419  
3 3017 West Charleston Blvd., #95  
Las Vegas, NV 89102  
4 (702) 870-8700  
(702) 870-0034 Fax  
Attorney for Plaintiff

5  
6 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

7 DOUGLAS KURDZIEL, )  
8 )  
Plaintiff, )  
9 ) No.  
vs. )  
10 )  
CAVALRY PORTFOLIO SERVICES, )  
11 LLC, )  
12 )  
Defendant. )  
13 ) JURY DEMANDED

---

14 COMPLAINT

15 JURISDICTION

16 1. The jurisdiction of this Court attains pursuant to the  
FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,  
17 and the doctrine of supplemental jurisdiction. Venue lies in the  
18 Southern Division of the Judicial District of Nevada as Plaintiff's  
19 claims arose from acts of the Defendant(s) perpetrated therein.

21 PRELIMINARY STATEMENT

22 2. This action is instituted in accordance with and to  
remedy Defendant's violations of the Federal Fair Debt Collection  
23 Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter "FDCPA"), and  
24 of related state law obligations brought as supplemental claims  
25 hereto.

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3. In March, 2011, Defendant initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff in Las Vegas, Nevada.

4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

## PARTIES

5. Plaintiff, DOUGLAS KURDZIEL, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by 15 U.S.C. Section 1692a(5).

6. Defendant, Cavalry Portfolio Services, LLC, is a foreign Limited-Liability Company, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Valhalla, NY, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

## **FACTUAL ALLEGATIONS**

7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.

8. Plaintiff is a victim of theft of identity.

9. Plaintiff is a 58-year-old veteran attorney.

10. Plaintiff was dunned by Defendant on March 3, 2011, regarding an account attributed to GE Money Bank (Exhibit 1).

1       11. On April 5, 2011, Plaintiff wrote Defendant advising that  
2 he was a victim of theft of identity (Exhibit 2).

3       12. Exhibit 2 includes Defendant's letter as well as prior  
4 correspondence to other collectors which had also been assigned  
5 fraudulent debt.

6       13. Exhibit 2 also contains Plaintiff's August 6, 2010, Las  
7 Vegas Metro Police Department Incident Report which described the  
8 theft in detail.

9       14. Exhibit 2 also contains Plaintiff's Declaration of  
10 Unauthorized Use and Sears' resolution of fraud charges.

11       15. In his April 5, 2011, letter Plaintiff advised Defendant  
12 of its potential liability under the FDCPA.

13       16. Defendant received Exhibit 2 on April 8, 2011 (Exhibit  
14 3).

15       17. An excerpt from Defendant's May 31, 2011, Trans Union  
16 profile is attached as Exhibit 4.

17       18. Exhibit 4 reflects Defendant's continued reporting of the  
18 GE Money Bank account as a \$3,000.00 active collection.

19       19. Defendant's continued reporting is in violation of FDCPA  
20 §§ 1692e, 1692e(2) (A), 1692e(8) and 1692e(10).

21       20. The foregoing acts and omissions of Defendant were  
22 undertaken by it willfully, maliciously, and intentionally,  
23 knowingly, and/or in gross or reckless disregard of the rights of  
24 Plaintiff.

25       21. Indeed, the foregoing acts and omissions of Defendant  
26 were undertaken by it indiscriminately and persistently, as part of  
27 its regular and routine debt collection efforts, and without regard  
28 to or consideration of the identity or rights of Plaintiff.

1       22. As a proximate result of the foregoing acts and omissions  
2 of Defendant, Plaintiff has suffered actual damages and injury,  
3 including, but not limited to, stress, humiliation, mental anguish  
4 and suffering, and emotional distress, for which Plaintiff should  
5 be compensated in an amount to be proven at trial.

6       23. As a result of the foregoing acts and omissions of  
7 Defendant, and in order to punish Defendant for its outrageous and  
8 malicious conduct, as well as to deter it from committing similar  
9 acts in the future as part of its debt collection efforts,  
10 Plaintiff is entitled to recover punitive damages in an amount to  
11 be proven at trial.

## CAUSES OF ACTION

COUNT I

15           24. The foregoing acts and omissions of Defendant constitute  
16 violations of the FDCPA, including, but not limited to, Sections  
17 1692d, 1692e, 1692f and 1692g.

18       25. Plaintiff is entitled to recover statutory damages,  
19 actual damages, reasonable attorney's fees, and costs.

COUNT II

22           26. The foregoing acts and omissions constitute unreasonable  
23 debt collection practices in violation of the doctrine of Invasion  
24 of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp.  
25 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of*  
26 *Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

27       27. Plaintiff is entitled to recover actual damages as well  
28 as punitive damages in an amount to be proven at trial.

1 JURY DEMANDED

2 Plaintiff hereby demands trial by a jury on all issues so  
3 triable.

4 WHEREFORE, Plaintiff prays that this Honorable Court grant the  
5 following relief:

6 1. Award actual damages.  
7 2. Award punitive damages.  
8 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C.  
9 § 1692k.  
10 4. Award reasonable attorney fees.  
11 5. Award costs.  
12 6. Grant such other and further relief as it deems just and  
13 proper.

14 Respectfully submitted,

15  
16 MITCHELL D. GLINER, ESQ.  
17 Nevada Bar #003419  
18 3017 West Charleston Boulevard  
19 Suite 95  
20 Las Vegas, NV 89102  
21 Attorney for Plaintiff  
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PO Box 1017  
Hawthorne, NY 10532  
86 00002305 823276



Phone: (800) 501-0909

[www.cavalryportfolioservices.com](http://www.cavalryportfolioservices.com)



MARCH 03, 2011

ROBERT MURDZIEL  
9233 JADECREST DR  
LAS VEGAS, NV 89134-6056

RE: Original Institution: GE Money Bank / Mervyns  
Original Account No.: 6045893290130917  
Cavalry Reference No.: 14031628  
Balance Due: \$2,966.02

Dear ROBERT MURDZIEL:

This letter serves as notice that the above-referenced account has been purchased by Cavalry SPV I, LLC and referred to Cavalry Portfolio Services, LLC for collection.

It is important that you:

- Contact us to arrange repayment terms (however, see your validation rights below).
- Forward all future payments to the above address in order to ensure proper credit and avoid delays in payment posting.

Unless you notify this office within (30) days after the receipt of this letter that you dispute the validity of the debt or any portion thereof, this office will assume the debt is valid.

If you notify this office in writing within (30) days after receipt of this letter that you dispute all or a portion of the debt, this office will obtain verification of the debt or a copy of a judgment and mail you a copy of such judgment or verification.

If you request, in writing, within thirty (30) days of receiving this notice, Cavalry will provide you with the name and address of the original creditor.

If you have any questions or would like to discuss payment solutions you may call me directly at (866) 884-7685.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Melissa Kindt

Cavalry Portfolio Services, LLC

"See Reverse Side for Important Information Concerning Your Rights"

**EXHIBIT I**

R. Douglas Kurdziel  
Direct T 702.415.2941 F 702.878.9995  
rkurdziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

April 5, 2011

Calvary Portfolio Services, LLC.  
Attention: Melissa Kindt  
P.O. Box 1017  
Hawthorne, N.Y. 10532

**Re:** Account No. - XXXXXXXXXXXX0917  
Your Client - GE Capital/Mervyns  
Original Account No.: 6045893290130917  
Your File No. - 14031628

Dear Ms. Kindt:

I am in receipt of your collections letter dated March 3, 2011 sent to a Robert Murdziel. Please be advised that I dispute all of the alleged claims and money due and owing. As I have explained to numerous persons attempting to collect his alleged debt from me, Robert Murdziel does not reside at my address. I do not know Robert Murdziel. As I have explained countless times before, my name is Robert Douglas Kurdziel. I have lived at 9233 Jadecrest Drive, Las Vegas, Nevada since approximately 1993 when my wife and I purchased our home. I did live on Sun Rose Drive, Las Vegas, Nevada between 1992 -1993 while my home was being built.

I am the victim of an identity theft. My various communications with numerous parties who have attempted to collect Mr. Murdziel's debt have indicated to me that in fact my social security number and my date of birth were given when Mervyns issued its credit card to Mr. Murdziel. Robert Murdziel is obviously a fictitious name. I have no idea who made the alleged charges. I do know, however, who did not apply for this card or make these alleged charges: Robert Douglas Kurdziel or his family. I have a very distinctive signature – although I have asked, I have never received a copy of the signed credit card application or the actual credit card vouchers that were signed when Mr. Murdziel made his purchase(s) with his Mervyns credit card.

I am attaching my last correspondence to the prior debt collector for your review and education. Please do not attempt to contact me at my home, on my cell or at my office again regarding the collection of this debt. I will consider it a bad faith collection effort and violation of the Fair Debt Collections Act should you persist. Please be advised that any future inquiries need to be sent to my attorney, Mitchell D. Gliner, Esq., 3017 West Charleston Boulevard, #95, Las Vegas, Nevada, 89102, (702) 870-8700. Please be advised that I intend to avail myself of all legal protections and remedies should you or your company persist in attempting to collect this debt from me, as I am a victim of an identity theft and not the debtor.

Sincerely,

R. Douglas Kurdziel, Esq.

RDK/jle

EXHIBIT 2

R. Douglas Kurzziel  
Direct T 702.415.2941 F 702.878.9995  
rkurzziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

January 18, 2011

Patebaude & Felix, A.P.C.  
Attention: Westly U. Villanueva, Esq.  
1771 East Flamingo Road, Ste. 112A  
Las Vegas, Nevada 89119

Re: Account No. - XXXXXXXXXXXXXXX0917  
Your Client - GE Capital  
Your File No. - 10-206750

Dear Mr. Villanueva:

I am in receipt of your collections letter dated January 11, 2011 sent to a Robert Murdziel. Please be advised that I dispute all of the alleged claims and money due and owing. As I have explained to numerous persons attempting to collect his alleged debt from me, Robert Murdziel does not reside at my address. I do not know Robert Murdziel. As I have explained countless times before, my name is Robert Douglas Kurzziel. I have lived at 9233 Jadecrest Drive, Las Vegas, Nevada since approximately 1993 when my wife and I purchased our home. I did live on Sun Rose Drive, Las Vegas, Nevada between 1992 -1993 while my home was being built.

I am the victim of an identity theft. My various communications with numerous parties who have attempted to collect Mr. Murdziel's debt have indicated to me that in fact my social security number and my date of birth were given when Mervins issued its credit card to Mr. Murdziel. Robert Murdziel is obviously a fictitious name. I have no idea who made the alleged charges. I do know, however, who did not apply for this card or make these alleged charges: Robert Douglas Kurzziel or his family. I have a very distinctive signature – although I have asked, I have never received a copy of the signed credit card application or the actual credit card voucher that is signed when something is purchased with a credit card at a store.

I am attaching my last correspondence to the prior debt collector for your review and education. Please do not attempt to contact me at my home, on my cell or at my office again regarding the collection of this debt. I will consider it a bad faith collection effort and violation of the Fair Debt Collections Act should you persist. I also find it deplorable that somebody from your office called both my cell phone and home phone this past Saturday morning between 8:17 and 8:19 am. Please be advised that I intend to avail myself of all legal protections and remedies should you or your law firm persist in attempting to collect this debt from me, as I am a victim of an identity theft and not the debtor.

Sincerely,

R. Douglas Kurzziel, Esq.

RDK/jle

R. Douglas Kandziel  
Street T702.415.2941 F702.878.9995  
rkandziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

August 6, 2010

**VIA U.S. POST & FACSIMILE**

**Phillips & Cohen**  
**Attention: Tillman Goodwin**  
**1002 Justison Street**  
**Wilmington, Delaware 19801**  
**Fax No. 866.504.9784**

**Re: Collection Account for Robert Murdziel- 9233 Jadecrest Drive, Las Vegas, Nevada**

Dear Sir:

I write this correspondence in response to our telephone communication earlier this morning. Attached please find a copy of the police incident report - no. LLV100806001512, you requested. In addition, I enclosed correspondence from December 9, 2009 to NCO Financial, August 20, 2008 to CAC Financial, April 29, 2008 to Mervyns Customer Service and September 20, 2007 to Redline Recovery Services, LLC. In addition, I enclose the Declaration Of Unauthorized Use I submitted to Sears, correspondence dated January 13, 2007 from Sears indicating it had initiated an investigation and correspondence from Sears dated January 23, 2007 indicating that they had completed their investigation and that all charges on the credit card were removed. You will please note the unbelievable coincidence that a Robert D. Murdziel also opened up the subject Mervyn's card on or about December 2005? Although you refused to listen because you have already decided that I'm not telling the truth, I will bet that if either you or the attorney who you are going to engage to sue me researches the original applications you will find that both cards listed 9236 Sun Rose Avenue, Las Vegas, Nevada as the applicants place of residence. This is an address that I rented between 1992 and 1993 while my current residence for the past 17 years was being built.

Your supervisor indicated to me that two payments had been made on this card allegedly by me. I do not believe I made any such payments. When I asked to see copies of the checks that were written to allegedly pay down the debt so I could verify signatures, account numbers, banks, etc. she indicated to me that you are merely a collection agency and did not have that type of information in your file. This raises a very big concern. If you only have limited information in your file about this debt, it perplexes me how it is that you are able to definitively state that I am responsible for the alleged debt. On a side note, I'm not sure what law school you went to but the one I went to vehemently taught that you are innocent until proven guilty. It is also my experience that the Plaintiff has the burden of proof contrary to your assertion that I had to prove

August 6, 2010  
Page 2

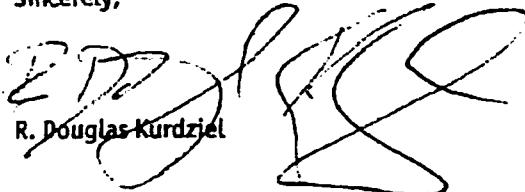
that I did not open the credit card or make any charges on it. I know this is a small technical point, but it is certainly an interesting one from a legal perspective.

I once again request the following information on this debt: 1) Please provide me with the original application for the subject credit card; 2) please provide me with any and all signed credit card payment slips that were allegedly signed by me; 3) please provide me with a list of items that I allegedly purchased on the subject credit card; 4) please provide me with all Mervyns' invoices allegedly sent to me since the debt accrued; 5) please provide me with any and all correspondence in your possession or control wherein an attempt was made to collect this debt from me; and 6) please provide me with copies of any checks, vouchers or other proof of payment that your supervisor referred to in our conversation this morning.

Pursuant to your supervisor's demand, I am making the following request in writing: Please ensure that you contact any and all credit agencies you have reported this debt to that you have notified I am challenging the alleged charges reflected on the card and do not believe I owe this debt. Pursuant to the Fair Debt Collections Act, I specifically request that you or anybody else affiliated with your company contact me by phone either at work, on my cell or at home. It will be more productive if you have your counsel contact me by mail or e-mail so that perhaps we can have an intelligent conversation about resolving this unfortunate event.

One final note needs to be addressed. Be advised I take great offense to your implication that I am a liar because you believe I should have filed a police report and did not. Even more offensive is your suggestion, which was parroted by your supervisor, that in all likelihood it was somebody close to me that had the card issued. I took this to mean that you were referring to my wife and two children. Sir, this is simply bad form.

Sincerely,



R. Douglas Kurdziel

RDK/jle

Printed by: R0387B  
Printed date/time: 06/09/2010 10:15

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
400 E STEWART  
LAS VEGAS, NEVADA 89101  
(702) 828-3111

## Incident Report

Page 1 of 3

Incident Number: LLV100606001812

### Incident Summary

Incident Type:	Report Type: STATION INCIDENT REI
Inc Occurred Address: UNK LAS VEGAS AREA LAS VEGAS, NV	Section/Beat: V2/V2
Inc Occurred Start: 07/16/2007 00:00	Inc Occurred End:
Domestic: N	Gang Related: U
Offense Motivation:	Substance: U
Contact Nature:	Reported Date/Time:
Reporting Officer: BACCUS, R 8387	Primary Assigned Officer:
Case Status: OPEN	Disposition:
	Disposition Date:

### Offenses

Statute Code: IDEN208.463	Enhancers:
Statute Desc: OBTAIN & USE PERSONAL IDENTIFYING INFO OF ANOTHER PERSON	
Counts: 1	Statute Severity: FELONY

### Persons Involved

Suspect: 0001	MNI: 9134444	Can ID Suspect: No
Victim Association: VICTIM	Contact Date/Time:	
Name: KUROZIEL, ROBERT DOUGLAS	DOB: 08/11/1952	Age: 54 - 54
Height: 6'3" - 6'5"	Weight: 236 - 238 lbs	Sex: MALE
Address: 8233 JADECREST DR LAS VEGAS, NEVADA 89134	Eye Color: HAZEL	Race: WHITE/CAUCASIAN
Phone Type 1: RESIDENCE/HOME Phone 1: (702) 228-1660	Ext 1:	Hair Color: GRAY OR PARTIALLY
Phone Type 2: BUSINESS/WORK Phone 2: (702) 578-0070	Ext 2:	Section/Beat:
Occupation: ATTORNEY	Employer/School: ARMSTRONG TEASDALE LLC	

The Use and Dissemination of this Record is Regulated by Law. Secondary Dissemination of any kind is Prohibited and could subject the offender to Criminal and Civil Liability.

This Information Relates to:

By: *KUROZIEL, ROBERT*  
Las Vegas Metro Police Dept.

Printed by: R2367B  
 Printed date/time: 6/6/10 10:53

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
 400 E STEWART  
 LAS VEGAS, NEVADA 89101  
 (702) 828-3111

## Incident Report

Page 2 of 3

Incident Number: LLV100806001812

### Modus Operandi

Against Persons:	Y
Against Property:	N
Occupied:	Y
General Premise 1:	RETAIL BUSINESS
General Premise 2:	
Specific Premises:	
Surrounding Area 1:	
Surrounding Area 2:	
Surrounding Area 3:	
Relationship to Suspect 1:	UNKNOWN
Relationship to Suspect 2:	
Weapon Type 1:	
Automatic:	N
Weapon Type 2:	
Automatic:	N
Weapon Type 3:	
Automatic:	N

### Crime Against Property

\$ of Premises Entered:	Suspect Action 1:
Entry Point:	Suspect Action 2:
Exit Point:	Suspect Action 3:
Entry Loc 1:	Suspect Action 4:
Exit Loc 1:	Suspect Action 5:
Entry Loc 2:	Additional Factor 1:
Exit Loc 2:	Additional Factor 2:
Entry Method 1:	Additional Factor 3:
Exit Method 1:	Additional Factor 4:
Entry Method 2:	Additional Factor 5:
Exit Method 2:	Security Type:
Entry Tool 1:	Victim Location:
Exit Tool 1:	Electronic Locks: N
Entry Tool 2:	Video Surveillance: N
Exit Tool 2:	Meld:
Vehicle Entry:	Inspectress:
Safe Entry:	

### Crime Against Persons

Pre-Incident Contact 1:	Suspect Action 1:	OBTAINED & USED PERSONAL INFORMATION
Pre-Incident Contact 2:	Suspect Action 2:	
Pre-Incident Contact 3:	Suspect Action 3:	
Victim Condition 1:	Suspect Action 4:	
Victim Condition 2:	Suspect Action 5:	
Victim Condition 3:	Sex Crime 1:	
Victim Condition 4:	Sex Crime 2:	
Victim Condition 5:	Sex Crime 3:	
Suspect Solicited 1:	Sex Crime 4:	
Suspect Solicited 2:	Sex Crime 5:	
Suspect Pretended to Be:	Vehicle Involvement 1:	
	Vehicle Involvement 2:	

Printed by: R9387B  
Printed date/time: 8/6/10 10:53

## Incident Report

Page 3 of 3

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
400 E STEWART  
LAS VEGAS, NEVADA 89101  
(702) 828-3111

Incident Number: LLV100806001812

### Narrative

ENTERED DATE/TIME: 8/6/2010 10:30:41  
NARRATIVE TYPE: INCIDENT CRIME REPORT  
SUBJECT: OBTAIN/USE PERSONAL IDENTIFYING INFORMATION OF ANOTHER  
AUTHOR: BACCUS, R 9387

THE VICTIM CAME INTO CENTRAL RECORDS AT 1015 HRS ON 08/06/10. THE VICTIM SAYS THAT HE RECEIVED A LETTER FROM REDLINE RECOVERY SERVICES, LLC COLLECTION AGENCY DATED 07/16/2007 REFERENCING A CREDIT CARD BALANCE OF \$1,418.61 ISSUED BY GE CAPITAL - MERVYN'S - LVNV FUNNDING LLC. THE NAME ON THE CREDITOR'S NOTICE IS ONE LETTER DIFFERENT THAN HIS OWN. THE VICTIM HAS BEEN IN CONTACT WITH VARIOUS CREDIT AGENCIES REFERENCING THIS BILL AS THE ACCOUNT HAS CHANGED HANDS. MOST RECENTLY, THE VICTIM SAYS HE RECEIVED A VOICEMAIL MESSAGE ABOUT THIS ACCOUNT ON 08/06/10. AFTER SPEAKING WITH THE COLLECTION AGENCY, HE HAS COME TO BELIEVE THAT WHOMEVER OPENED THE ACCOUNT USED HIS NAME, DOB, AND SOCIAL SECURITY NUMBER.

THE VICTIM SAYS THAT HE WAS THE VICTIM OF A SIMILAR INCIDENT REGARDING A BILL FROM SEARS. THE NAME OF THAT BILL'S WOULD-BE RECIPIENT WAS ALSO SLIGHTLY DIFFERENT, BUT THE OTHER PERSONAL IDENTIFIERS WERE EXACTLY HIS OWN. BOTH OF THESE INCIDENTS APPEAR ON THE CREDIT REPORT THE VICTIM MADE AVAILABLE AT THE TIME OF REPORT ENTRY. THE SEARS DEBT WAS RESOLVED WITH THAT COLLECTION AGENCY, AND THE VICTIM DID NOT REPORT IT TO LVMPD.

THE VICTIM SAYS THAT HE HAS NOT HAD A MERVYN'S CARD SINCE APPROXIMATELY 1975 OR 1976. THE VICTIM SAYS THAT HE DID NOT ACCRUE THIS BILL.

THE VICTIM ADDS THAT SOMETIME IN 2005 OR 2006 HE DID LOSE HIS WALLET AND ALL OF ITS CONTENTS-- TO INCLUDE HIS DRIVER'S LICENSE AND CREDIT CARDS. THE VICTIM SAYS THAT IN AN EARLIER CONVERSATION REGARDING THE MERVYN'S DEBT, HE BELIEVES HE WAS ADVISED BY AN EMPLOYEE THAT THE CARD AND THE DEBT WHEN INCURRED SOMETIME IN 2008.

THE VICTIM SAYS THAT HE NEVER GAVE ANYONE PERMISSION TO OPEN A MERVYN'S CREDIT CARD ACCOUNT UNDER HIS IDENTITY OR ON HIS BEHALF.

Page 1 of 1

## VOLUNTARY STATEMENT

100806-1517

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN.	
Signature	Date
Obtain / USE PERSONAL INFO. UNK LV Area	07/16/2007
of ANOTHER	Time Occurred
	V2
	<input checked="" type="checkbox"/>

Robert Douglas Murdzief		Date	Time						
Age	Sex	Weight	Height	Spouse	Employer				
C	M	63	240	Gray	Hazel	8/32	6'02"	m-F	Armstrong Testable LLC
9233 Jadecrest Drive		Las Vegas NV		SSN	89134			Bus phone 702 228-1659	
Armstrong Testable LLC		Secondary		Bus phone	202 678-5070			Home phone	
Residence is Regulated by Credit Secondary		Disembarkation of Any kind is Prohibited		Bus ext	Attorney			Credit Card Holder	
and Could subject the offender to Criminal		and Civil Liability.		Att ext	89134			Cardholder	
work		Anytime		Att address				Cardholder	
This information is true to the best of my knowledge.									
DETAILS									
By [Signature] Date: 07/16/2007									
Some time in Spring of 2007 I received a bill from LVAC Funding LLC seeking payment for charges on a Marvin's card issued to a Robert MURDZIEF. At or about this same time I had also discovered that SEARS had issued a credit card to a Robert Murdzief. A Sears was also trying to collect a past due debt amount owed by a Mr. Murdzief. I was requested by Sears to make a theft claim which I did and after their internal investigation they determined somebody else named Murdzief opened a card with my SS# and DOB.									

I have been attempting to contact the various collection agencies that have at best contacted me about the Marvin charges to no avail. Everytime I think the situation is resolved a new collection agency re-initiates collection attempts.

This morning I contacted that latest collection company. They kept implying that I was a lie because I had never filed a police report claiming my identity was stolen & credit cards had been opened in a name similar to mine but with my SS# & DOB.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 400 Stewart Plaza DESK

Date 6<sup>th</sup> day of August 2010 Time 10:15 A.M. I.V. 2010  
 RO 367B RDJF8  
 C 44222

R. Douglas Kudziel  
(702) 415-2941  
(702) 878-9995 (Fax)  
rkudziel@armstrongteasdale.com

**ARMSTRONGTEASDALE LLP**

ILLINOIS

KANSAS

MISSOURI

NEVADA

SHANGHAI

ATTORNEYS AT LAW

December 9, 2009

NCO Financial Systems  
P.O. Box 15740  
Wilmington, DE 19850-5740

NCO Financial Systems  
2725 East Desert Inn Road, Ste 250  
Las Vegas, NV 89121

**Re: Creditor's Account # 6045893298138917 -- Internal Account # 9WBQJS**

To Whom It May Concern:

Please be advised that I am still contesting all alleged charges, as I have been since September 20, 2007. I have attached three letters that were previously written to various entities, including Mervyns, challenging its attempts to collect this debt. I am not Robert Murdziel, although the person that had the subject credit issued in this name appears to have access to my social security number and birth date information. As the attached letters clearly set forth, I am the victim of an identity theft. I thought this matter was closed in August 2008 when I was dealing with Elaine from CAC. Apparently, I was mistaken.

It is my understanding that you will provide me with verification of the debt incurred. I am not in a position to dispute that somebody charged the claimed amount on a Mervyns' credit card. I am disputing, however, that the person signing the credit card application that generated the credit card in question was me, that I authorized Mervyns to issue the subject credit card in my name or in the name of Robert Murdziel, and that I ever used the subject credit card to purchase anything.

To facilitate my understanding of the issues and Mervyns' claim that I owe it a debt, please provide me with a signed copy of the credit card application that generated the credit card in question, any and all signed authorizations granting Mervyns the right to charge the claimed amounts to the subject credit card and all past correspondence to Robert Murdziel attempting to collect the outstanding debt.

I once again request that Mervyns stop attempting to collect this wrongfully claimed debt from me and to clear any negative credit references that may still exist on the various credit reporting agency rating systems. There is no doubt that everybody has had sufficient notice of

NCO Financial Systems  
December 9, 2009  
Page 2

ARMSTRONG TEASDALE LLP

my identity theft and some other party's felonious use of the subject credit card that Mervyns wrongfully issued to Robert Murdziel given my efforts over the past two years to inform Mervyns and its collection agencies of the true facts. I will consider any further attempts to collect on this wrongful claim as an act of harassment and a violation of the Fair Debt and Collections Act. Please be advised that I will pursue all remedies legally available to me to stop this harassment.

Sincerely,

R. Douglas Murdziel

RDK/jlc

Encl - Letter dated 08.20.08 to Elaine at CAC Financial  
Letter dated 04.29.08 to Mervyns Customer Service  
Letter dated 09.20.07 to Redline Recovery Services, LLC

JONES VARGAS

MERVYN S. BLAINE, JR.  
JOSEPH H. BLOOM  
ALBERT F. BOLES  
JOHN P. BONNE, III  
WALTER R. BORRAS  
JOSEPH G. BOURGEOIS  
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JOSEPH L. BRADY  
JOHN E. BREWER  
JOHN C. BREWER  
KING S. BREWER  
ELVIO S. BREWER/WHITE  
ANDREW L. BREWER  
JOHN S. BREWER/WHITE  
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H. DOUGLAS BOURGEOIS  
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ALICE HAGLAND  
OF COUNSEL  
OBRIAN J. MATTER  
EXECUTIVE DIRECTOR

CLIFFORD A. BREWER (1981 - 2000)  
JOSEPH H. BLOOM (1981 - 2000)  
GEORGE L. BREWER (1980 - 1994)  
JOHN S. BREWER/WHITE (1980 - 1994)  
LAWRENCE BREWER (1980 - 1994)  
JOHN T. BREWER/WHITE (1980 - 1994)

August 20, 2008

Via Fax: 405 425-0198

Elaine  
CAC Financial

Re: Disputed Credit Charges Wrongly Assessed By Mervyns  
Reference # - 9432499

Dear Elaine:

Pursuant to our telephone call of earlier today, I write to inform you that I am challenging charges claimed by Mervyns. I am attaching my previous challenges made directly to Mervyns on April 29, 2008 and to Redline Recovery Services, LLC on September 20, 2007. As the attached correspondence indicates, I believe that I am the victim of a stolen identity. As such, I will not pay any outstanding balance. Any assistance that you may be able to provide in helping finally resolve this matter will be greatly appreciated.

I would like to thank you for attention, politeness and helpful information. All of my other attempts to deal with this matter have been less than fruitful because I can either not access a human being or I get transferred an outsourced person who cannot answer my questions, puts me on hold and then eventually cuts me off.

Sincerely

Doug Kuntzel

# JONES ♦ VARGAS

MICHAEL S. ALVAREZ  
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ALVIN R. CANNON, JR.  
ALVIN R. CANNON, III  
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MIRE P. MCGOWAN, IV  
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JOHN C. EASTLEY (503) 2-3900  
LAWIS EASTLEY (503) 2-3900  
GARY T. PRITCHARD (503) 2-3900

Redline Credit Line  
(800) 365-3770  
E-mail Address:  
[info@redlinecreditline.com](mailto:info@redlinecreditline.com)

April 29, 2008

**Mervyns Customer Service**  
22301 Foothill Boulevard  
Hayward, California 94541-2709

**Re: Unauthorized Credit Card**

To Whom It May Concern:

Please be advised that I have recently pulled my Experian Credit report. I discovered that there is a negative credit report in the amount of \$1,724 listed by your company. It was my understanding that I had resolved this matter after dealing with your credit collector, Red Line Recovery Services, LLC, in September 2007. I am attaching that correspondence for your review. As I informed Redline, and I am informing you, I am not Robert Mundziel and I have not incurred any debt at Mervyns in the past 20 years.

I have no recollection of shopping in a Mervyn's in the past twenty (20) years. Moreover, the valid credit card that was issued to me (more than twenty-five [25] years ago) was issued under my correct name and had a different account number and has not been used in more than 20 years. I am further informed by my wife that neither she nor my two children, who have not resided in our home since 2005, have used my Mervyns' credit card.

I explained to Redline's out-sourced telephone persons that I am apparently a victim of identity theft. The person(s) to whom Mervyn's issued a credit card (without my authorization) undoubtedly obtained my correct date of birth and Social Security number, but has not spelled my name correctly and used an address at which I have not lived since 1992. It is my best guess that Mervyns allowed someone, other than myself, to sign up for a credit card on the internet and issued the card to that person.

I have attempted to inform your out-sourced customer service persons, when I was referred to them by your Hayward customer service location, that I am challenging this bill and refuse to pay it. Unfortunately, the person I was put in contact with kept insisting that there was too much static on the line and that I should call back. After three attempts, I gave up. On a side note, I would strongly suggest that you bring your customer service back to the United States where the phone system does not have as much static.

MAILING ADDRESS: 100 EAST LASALLE STREET, TWELFTH FLOOR, CHICAGO, ILLINOIS 60602 TEL. (773) 730-6900 FAX (773) 730-6177  
LAW OFFICES IN ILLINOIS ONLY

Mervyns  
April 28, 2008  
Page 2

Mervyns Customer Service  
April 25, 2008  
Page two

Be advised that this alleged debt is showing up on at least one credit report as an outstanding unpaid bill and is negatively affecting my credit rating. I strongly suggest that you investigate the origin of this debt, and have all negative references removed from all the credit reporting agencies to whom Mervyns reported it.

If you do not resolve this problem that you created, I will take all legal action necessary to restore my good credit and to obtain compensation for any damages that Mervyn's has caused. In addition, as you are well aware, both the Fair Debt Collections Act and the Credit Reporting Act provide that any violation of either or both of these acts entitles the wronged party to both punitive damages and attorney's fees in addition to compensatory damages. I will seek all remedies entitled to me.

Please have your counsel communicate directly to me in writing at the above address, should you have any further questions or concerns about this matter. I also request that you have your agents and or representatives stop calling my home and sending letters addressed to Robert Murdziel to my home address.

Sincerely,

JONES VARGAS

R. Douglas Kudziel

RDK:mtf  
Enc: Letter to Redline Recovery Services, LLC

GERBERT M. JONES  
REGINE S. BLAINE, JR.  
JOSEPH W. BURGESS  
ALBERT F. CADDEAU  
ROBERT P. CALDWELL  
WILLIAM J. CALDOWAN  
KARY A. CAMPBELL  
MICHAEL T. CAMPBELL  
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JOSEPH L. CARPENTER  
ROBERT W. CARTER  
RICK S. CHAMBERS  
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JAMES L. CHAMBERS  
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PAUL E. CHAMBERS

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GEORGE L. COOPER (1999 - 2000)  
JOHN C. COTTLETT (1999 - 2002)  
LOUIS HEAD COOPER (1999 - 2002)  
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AND HODGES  
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SYLVIA D. DRAYTON  
DOLAN A. DRYDEN  
KAREN D. DRYDEN  
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DEBORAH M. DUNLAP  
WALTER D. DUNLAP  
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OF COUNSEL  
BRUCE A. DUTTER  
EXECUTIVE DIRECTOR

September 20, 2007

*Via U. S. Mail, Regular and Return Receipt Requested*

Redline Recovery Services, LLC  
1145 Sanctuary Parkway, Suite 350  
Alpharetta, Georgia 30004-4756

**Re: Account ID: N2314265**  
**Reference: 6045893290130917**

To Whom It may Concern:

Please be advised that I am in receipt of correspondence dated September 9, 2007 to Robert Murdziel wherein Redline Recovery Services is attempting to collect on an outstanding Mervyn's credit card bill. As I have informed your out-sourced persons who answer the telephones on numerous occasions since June of this year, I am not Robert Murdziel and I have not incurred the debt that you are referring to in your correspondence. I have no recollection of shopping in a Mervyn's in the past twenty (20) years. Moreover, the valid credit card that was issued to me (more than twenty-five [25] years ago) was issued under my correct name and had a different account number. I have been informed by my wife that to the best of her recollection, neither she nor my children, who have not resided in our home since 2005, have used a credit card in Mervyn's.

As I explained to your out-sourced telephone persons, I believe that I am a victim of identify theft. The person(s) to whom Mervyn's issued a credit card (without my authorization) undoubtedly obtained my correct date of birth and Social Security number, but has not spelled my name correctly and used an address that I have not lived at since 1992. As I have attempted to inform your out-sourced telephone persons and Mervyn's, I am challenging this bill and refuse to pay it.

Please be advised that if this alleged debt shows up on any credit report as an outstanding unpaid bill or affects my credit rating negatively in any way, I will take any and all legal action necessary to restore my good credit and to obtain compensation for damages that your agency and/or Mervyn's has caused. In addition, as you are well aware, both the Fair Debt Collections Act and the Credit Reporting Act provide that any violation of either or both acts entitles the wronged party to both punitive damages and attorney's fees in addition to compensatory damages.

Redline Recovery Services, LLC  
September 20, 2007  
Page 2

If you have any further questions or concerns about this matter please have your counsel communicate directly with me at the above address.

Sincerely,

JONES VARGAS



R. Douglas Kurdzie

RDK:lmk

DECLARATION OF UNAUTHORIZED USE



\*003120063260091001\*

Please return this declaration only if you are reporting unauthorized charges.

I, R Douglas Kurdziel, the undersigned, do hereby state and declare as follows:

1. This declaration concerns the Sears account number: 5049-9401-7970-8788
2. Neither I, nor anyone authorized by me, nor anyone with my knowledge or consent received or expect to receive any benefits or value as a result of this transaction(s).
3. My card was (circle one): (Continue on the back of this form if additional space is needed.)  
A. Lost/ Stolen. Date: \_\_\_\_\_ Location: \_\_\_\_\_ If stolen, police report filed? Y/N

If yes, Case #: \_\_\_\_\_ City: \_\_\_\_\_ Precinct: \_\_\_\_\_

Phone number: \_\_\_\_\_ Detective Name: \_\_\_\_\_

B Never Received

C All cards were in my possession at the time of fraudulent use.

D Other: (please explain): A CARD WAS ISSUED TO SOMEONE WHO HAD GAINED  
ACCESS TO MY SOCIAL SECURITY NUMBER AND BIRTH DATE - DID NOT SPELL NAME  
CORRECTLY - USED AN OLD ADDRESS & HAD NOT  
LIVED AT IT FOR TWELVE YEARS.

4. Listed below is the name on any card that was lost/stolen/never received: Robert D. MURDZIEL

5. I have reason to believe the following individual(s) utilized the credit card(s) described above or had access to my account number without my authorization: No idea

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Reason: \_\_\_\_\_

6. The signatures set forth below are the signatures of MYSELF AND ALL AUTHORIZED USERS ON THIS ACCOUNT (continue additional authorized user signatures on the back):

Print Name

R Douglas Kurdziel

Christine Kurdziel

Signature

R Douglas Kurdziel  
Christine Kurdziel

7. I understand that Security Services investigates alleged fraudulent or unauthorized credit card usage and may refer the same to the appropriate law enforcement agency. I agree to cooperate in any prosecution of individuals charged with fraudulent or unauthorized card usage.

Primary cardholder signature R Douglas Kurdziel

A FALSE DECLARATION TO A FEDERALLY INSURED FINANCIAL INSTITUTION MAY BE A VIOLATION OF FEDERAL AND/OR STATE LAW.

I have examined my billing statements and have circled all transactions that are in dispute:

Send this document to:  
Security Services, PO BOX 6090, Sioux Falls, SD 57117 Fax: 605-357-2113

**Sears®**

Sears Cardmember Services  
PO Box 45129  
Jacksonville, FL 32232

January 13, 2007

6775

**ROBERT D KURDZIEL  
9233 JADECREST DR  
LAS VEGAS NV 89134-6056**

**Account Number:**  
**XXXX-XXXX-XXXX-8788**

Dear ROBERT D KURDZIEL:

We have received the information you sent us regarding your Sears Card account.

We are presently conducting a review of your account. We will contact you with the results as soon as our investigation has been completed.

We appreciate your patience while this matter is being resolved.

Sincerely,

## **Security Services**

This account is issued by Citibank (South Dakota), N.A.  
**FEDERAL REGULATIONS REQUIRE THE STATEMENT PRINTED ON THE REVERSE SIDE**

9/LB/S14110/001/00/00/00/00000000/F2007011300021564/6775

Sears is a registered trademark of Sears Brands, LLC

**Sears**

Sears Cardmember Services  
PO Box 45129  
Jacksonville, FL 32232

January 23, 2007

7247

ROBERT D KURDZIEL  
9233 JADECREST DR  
LAS VEGAS NV 89134-6056  
[REDACTED]

Account Number:  
XXXX-XXXX-XXXX-8788

Dear ROBERT D KURDZIEL:

We have completed our investigation of unauthorized use on your Sears Card account. The disputed charges and any related fees and finance charges were removed from your account.

We look forward to providing you the best possible service.

Sincerely,

Security Services

This account is issued by Citibank (South Dakota), N.A.  
FEDERAL REGULATIONS REQUIRE THE STATEMENT PRINTED ON THE REVERSE SIDE

0/LR/S14104/001/00/00/0000/00000000/F2007012300036496/7247

Sears is a registered trademark of Sears Brands, LLC

## EXHIBIT 3

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <b>X</b> <i>[Signature]</i></p> <p><input type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery <i>4/18</i></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below:</p> <p><i>[Large circular postmark area]</i></p> <p>3. Service Type <b>USPS</b></p> <p><input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail</p> <p><input checked="" type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to:  <i>Calvary Portfolio Services LLC Melissa Kindt P.O. Box 1017 Hawthorne, NY 10532</i></p>		<p>2. Article Number (Transfer from service label) <b>7008 1830 0003 4749 9803</b></p>	
PS Form 3811, February 2004		Domestic Return Receipt	102585-02-M-1540

Credit Scoring, Online Credit Checks &amp; ID Fraud-Watch - TrueCredit Services

Page 1 of 11

**TransUnion.**

**truecredit**

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[credit alerts](#) | [credit reports](#) | [credit scores](#) | [trending](#)

---

**Credit Reports**  
May 31, 2011

Refresh Your Report

**PERSONAL INFORMATION** ?

CREDIT REPORTING AGENCY:				
CREDIT REPORT DATE:	05/31/2011	Add Experian and Equifax Reports NOW!		
NAME: ALSO KNOWN AS:	ROBERT D. KURDZIEL DOUGLAS D. KURDZIEL KURDZIEL,R,DOUGLAS RD KURDZIEL			
DATE OF BIRTH:	08/1952			
CURRENT ADDRESS:	9233 JADECREST DR #D LAS VEGAS, NV 89134 05/01/1995			
PREVIOUS ADDRESS:	11233 PASEO MONTANOSO SAN DIEGO, CA 92127 04/01/1995			
	9236 SUN ROSE AV LAS VEGAS, NV 89134			
EMPLOYER:	LAW STUDENT 12/01/1989			

**Consumer Statement**

None Reported

**Debt Relief Aid. Do you Qualify?**

**SUMMARY** ?

	TransUnion	Experian	Equifax
TOTAL ACCOUNTS:	33	Add Experian and Equifax Reports NOW!	
OPEN ACCOUNTS:	6		
CLOSED ACCOUNTS:	27		
DELINQUENT:	0		
DEROGATORY:	2		
BALANCES:	69669		
PAYMENTS:	1238		
PUBLIC RECORDS:	0		
INQUIRIES (2 years):	1		

**See Your Complete Credit Picture**

Data From ALL 3 Bureaus in 1 Easy-to-Read Report

**CLICK HERE**

**EXHIBIT 4**

